

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC., PRODUCTS LIABILITY)
LITIGATION)
) MDL No.: 2419
) Master Docket No.: 1:13-md-2419-RWZ
)
THIS DOCUMENT RELATES TO:)
)
)
All Tennessee Actions Against The)
St. Thomas Entities.)

DECLARATION OF BENJAMIN A. GASTEL

Benjamin A. Gastel declares, under penalty of perjury on the date identified below, as follows:

1. I am an attorney at Branstetter, Stranch, and Jennings, PLLC, and our firm sits on the Plaintiffs' Steering Committee "(PSC)" in the above-referenced lawsuit (the "MDL"). I make this declaration in support of the contemporaneously filed Plaintiffs' Steering Committee's Motion to Compel the St. Thomas Entities¹ To Respond To Certain Document Requests (the "Motion").

2. The PSC originally served its initial common discovery requests on the St. Thomas Entities on or around October 9, 2013. The St. Thomas Entities provided initial responses on or around December 11, 2013, copies of which are attached hereto as Exhibits 1-3. The PSC sent an initial discovery deficiency letter on April 17, 2014 identifying certain deficiencies in the St. Thomas Entities' December 11, 2013 discovery responses, a copy of this letter is attached hereto as Exhibit 4. The parties then held discovery conferences on or around

¹ The Defendants Saint Thomas West Hospital, formerly known as St. Thomas Hospital ("[Saint Thomas Hospital]"), Saint Thomas Health ("[Saint Thomas Health]"), and Saint Thomas Network ("STN") are collectively referred to as the "St. Thomas Entities".

May 5 and 6, 2014 and again on August 4, 2014 to discuss the identified deficiencies in the original discovery responses.


3. During these meet and confer sessions, the parties were able to reach agreement on certain items, and the St. Thomas Entities agreed to supplement their initial responses upon the Court entering a common discovery order. The Court entered its Common Discovery Order on September 18, 2014. Thereafter, the St. Thomas Entities supplemented their discovery responses on November 10, 2014, but the parties continued to disagree as to the scope of discovery at issue. The PSC eventually filed a motion to compel and following the filing of this motion to compel the parties engaged in additional meet and confers with Benjamin Gastel appearing on behalf of the PSC along with Adam Schramek and other counsel appearing for the Saint Thomas Entities. Although the issues related to the Saint Thomas Entities' interrogatory responses were largely resolved, two issues remained: whether the Saint Thomas Entities would be required to produce the entire Saint Thomas Hospital formulary or simply the portion of it that relates to MPA

4. A copy of Saint Thomas Entities' supplemental interrogatory responses relevant to the pending motion are attached hereto as Exhibit 5. As part of its supplemental interrogatories, the Saint Thomas Entities did produce the formulary policy and a redacted version of the formulary addressing only the entries related to MPA.

5. A copy of the name tag of Ms. Sherri DeZwaan is attached hereto as Exhibit 6.

6. A copy of the publicly available Corporate Responsibility Program policy for Saint Thomas Health is attached hereto as Exhibit 7.

Executed on this 23rd day of January, 2015, in Nashville, Tennessee.



Benjamin A. Gastel